REMARKS

Rejection of Claims 1 – 24 under 35 U.S.C. § 103 (a) as being unpatentable over USPN 2006/0250960(Ando), in view of US 5,436,899 (Fujino), and in view US 6,154,499 (Bhaskar), and further in view of USPN 2005/0018635 (Proctor)

Applicant respectfully traverses the rejection of claims 1 – 24. Reconsideration is respectfully requested.

The Office Action on pages 3 to 5 states "Consider claim 1, Ando clearly disclose … However, Ando as modified by Fujino et al., does not specifically disclose the increase or decrease of first coding rate. In the same field of endeavor, Bhaskar et al. clearly disclose that first voice coding rate changes (Abstract, lines 8 -14, column 5, lines 11 -39) depending on the transmission condition and the control data originally coded in the voice. … However, Ando, as modified by Fujino et al., and Bhaskar et al. does not specifically disclose the increase or decrease of first error correction rate. In the same field of endeavor, Proctor, JR, clearly discloses that first error correction rate changes (Fig.3, paragraph 17; paragraphs 10&12) depending on the transmission condition and the control data originally coded in the voice. "

Applicant respectfully submits that the combination of Ando, Fujino, Bhaskar and Proctor does not teach or suggest all the claim limitations as set forth in independent claims 1, 17 and 19. Specifically, independent claims 1, 17, and 19 require a processor "causing said communication device to operate in a first mode of operation when said signal quality estimation is above a threshold, wherein said first voice coding rate is adjusted as a function of said first and second control data" and "causing said communication device to operate in a second mode of operation when said signal quality estimation is below said threshold, wherein said first error correction rate is adjusted as a function of said first and second control data" which are not taught or suggested in the combination of Ando, Fujino, Bhaskar and Proctor. Since the combination of Ando, Fujino, Bhaskar and Proctor fails to disclose Applicant's claimed invention as claimed in independent claims 1, 17, and 19, Applicant respectfully requests withdrawal of the rejection of claims 1, 17, and 19 under 35 USC 103(a). Applicant requests that claims 1, 17, and 19 now be passed to allowance.

Ando is directed to a multi-access communicating method and transmitting and receiving apparatus therefor. Fujino is directed to a voice multiplexing device or switching system with a determination algorithm for determining if the voice signal corresponds to a speech mode and silent mode based on signal to noise ratio (SNR) thresholds. Bhaskar is directed to a nested codec that transmits at a constant rate, which is the highest possible in the system. The rate reductions from the maximum rate occur automatically at the receiver, without transmitter control, based on the detected degraded conditions at the receiver. Proctor is directed to variable coding rate for forward link. The FEC coding rate may be reduced or increased based on the propagation conditions.

Applicant respectfully disagrees with the statement on page 5 of the Office Action that the combination of Ando, Fujino, Bhaskar and Proctor describes "causing said communication device to operate in a first mode of operation when said signal quality estimation is above a threshold, wherein said first voice coding rate is adjusted as a function of said first and second control data." The Office Action specifically refers to Abstract, lines 8-14 and column 5, lines 11-39 of Bhaskar as describing or being analogous to "said first voice coding rate is adjusted as a function of said first and second control data." This analogy is, however, a mischaracterization of Bhaskar. Applicant's independent claims disclose "a transmitter for transmitting, … a first voice signal at a first voice coding rate" and that "said first voice coding rate is adjusted." Thus, Applicant discloses adjusting the first voice coding rate for transmitting by a transmitter. Bhaskar, in contrast, describes the nested codec with a receiver for reconstructing the transmitted signal at a lower rate according to the channel conditions. Further, Bhaskar describes the transmitter of the nested codec transmitting at a constant rate, rather than that "said first voice coding rate [for transmitter] is adjusted" as required by the independent claims 1, 17, and 19.

Furthermore, Applicant states that "the first voice coding rate is adjusted as a function of said first and second control data" and that the first voice signal to be transmitted by the transmitter comprises first control data and the second signal received by the receiver comprises at least one second control data. Thus, "the first voice coding rate is adjusted as a function of said first and second control data" in the first and second voice signals from the receiver and the transmitter. In contrast, Bhaskar simply teaches reconstruction of the transmitted signal by reducing the rate depending on the quality of the signal at the receiver and not as a function of the first and second control data from the receiver and the transmitter. At best, Bhaskar’s quality of the signal may be equated to Applicant's first signal quality which is not Applicant's first and second control data. Thus, the application of Bhaskar should be withdrawn.

Furthermore, Applicant respectfully submits that the combination of Ando, Fujino, Bhaskar and Proctor does not provide a reasonable expectation of success. Specifically, it is clear that the combination of Ando, Fujino, Bhaskar and Proctor would not work, for the following reasons. As mentioned above, the Office Action cites Bhaskar for claim limitation of “said first voice coding rate is adjusted.” Bhaskar teaches the receiver reconstructing the transmitted signal at a lower rate. On the other hand, the Office Action appears to be citing Ando for ““a transmitter for transmitting, … a first voice signal at a first voice coding rate” and thus, suggesting that Ando teaches the transmitter part transmitting at the first voice coding rate. Thus, it appears that the Office Action is combining cited Ando, describing operation of the transmitter part, with cited Bhaskar, describing operation of the receiver, which would not work. Since the combination of Ando and Bhaskar will not work, the combination of Ando, Fujino, Bhaskar and Proctor will not work.

Furthermore, Applicant respectfully disagrees with the contention on page 5 of the Office Action that the combination of Ando, Fujino, Bhaskar and Proctor describes “causing said communication device to operate in a second mode of operation when said signal quality estimation is below said threshold, wherein said first error correction rate is adjusted as a function of said first and second control data.” The Office Action specifically refers to Figure 3 and paragraphs 10, 12, and 17 of Proctor as describing that “said first error correction rate is adjusted as a function of said first and second control data.” This combination, however, fails to provide the “first error correction rate [being] adjusted as a function of said first and second control data” for the following reasons As mentioned above, the first and second voice signals, from the transmitter and the receiver, comprise “said first and second control data” and that “said first error correction rate is adjusted as a function of said first and second control data." In contrast, Proctor simply teaches adjusting the FEC coding rate, equated to Applicant's first error correction rate, based on channel propagation conditions at the receiver. At best, the channel propagation conditions may be equated to Applicant's first signal quality, and not as a function of the first and second control data. There is no mention of first error correction rate being adjusted as a function of said first and second control data. Thus, the application of Proctor should be withdrawn.

Therefore, the combination of Ando, Fujino, Bhaskar and Proctor do not teach or suggest the claim limitation of "causing said communication device to operate in a first mode of operation when said signal quality estimation is above a threshold, wherein said first voice coding rate is adjusted as a function of said first and second control data" and "causing said communication device to operate in a second mode of operation when said signal quality estimation is below said threshold, wherein said first error correction rate is adjusted as a function of said first and second control data" as required by independent claims 1, 17, and 19 so the Applicant respectfully requests withdrawal of the rejection of claims 1, 17, and 19 under 35 U.S.C 103.

Furthermore, regarding the claim 3, Applicant respectfully disagrees with the statement on page 6 of the Office Action that " claim 3, and as applied to claim 1 above, Ando, as modified by Fujino et al., Bhaskar et al. and Proctor, clearly discloses and shows a communication device as described." The Office Action further states that "In the same field endeavor, Fujino et al. clearly shows a method wherein said first control data includes information indicating a first level of confidence in the presence of speech in said first voice signal (column 18, lines 50 -68; column 19, lines 1-6), and said second control data includes information indicating a second level of confidence in the presence of speech in said second signal (column 18, lines 50 -68; column 19, lines 1-6)." To this, Applicant respectfully submits that the dependent claim 3 further clarifies the independent claim 1 and includes all limitations of the independent claim 1. The independent claim 1 teaches "said first error correction rate is adjusted as a function of said first and second control data" and "said first voice coding rate is adjusted as a function of said first and second control data." Thus, the dependent claim 3 clarifies that "said first error correction rate" and "said first voice coding rate" is adjusted as a function of "said first control data [which] includes information indicating a first level of confidence in the presence of speech in said first voice signal, and said second control data [which] includes information indicating a second level of confidence in the presence of speech in said second signal." In contrast, Bhaskar and Proctor teach "said first error correction rate" and "said first voice coding rate" being adjusted as a function of signal quality. Furthermore, nowhere does Fujino suggest or teach "said first error correction rate" and "said first voice coding rate" being adjusted as a function of the first and the second control data as disclosed in the dependent claim 3. Fujino, in contrast, simply describes determining 3-bit codes depending on whether the state is non-calling, silent, and speech modes for demultiplexing. Thus, the combination of Ando, Fujino, Bhaskar and Proctor fails to teach or suggest all claim limitations as required by the dependent claim 3.

Furthermore, dependent claims 2-16 and 18, 20-24 depend from, and include all the limitations of independent claims 1, 17 and 19. Therefore, Applicant respectfully requests the reconsideration of dependent claims 2-16 and 18, 20-24 and requests withdrawal of the rejection.

For the above reasons, Applicant submits that claims 1-24 are not obvious in view of the combination of Ando, Fujino, Bhaskar and Proctor, and therefore that the rejection of claims 1-24 under 35 USC 103(a) should be withdrawn. Applicant requests that claims 1-24 now be passed to allowance.

Conclusion

Applicant has reviewed the other references of record and believes that Applicant's claimed invention is patentably distinct and nonobvious over each reference taken alone or in combination. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Such action is earnestly solicited by the Applicant. Should the Examiner have any questions, comments, or suggestions, the Examiner is invited to contact the Applicant's attorney or agent at the telephone number indicated below.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Respectfully submitted,

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